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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,421	11/26/2003	James A. Nolen	1387.010USU	2681

7590 11/30/2004
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EXAMINER	
ROWAN, KURT C	
ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,421

Applicant(s)

NOLEN ET AL.

Examiner

Kurt Rowan

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 11 is objected to because of the following informalities: in line 5, "lease" should be ~~least~~. Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wigton et al. in view of Admitted Prior Art.

The patent to Wigton shows an insect attracting trap and the process for attracting insects to the trap by producing a gaseous product of carbon dioxide and providing the carbon dioxide gas to the insect trap to lure insects to the trap and destroy them.

Wigton employs a burner to burn a carbon based fuel which produces carbon dioxide and water as the products of combustion. Wigton also employs an enclosed housing 16, 18, having an inlet 32 for entry of air into the housing and a discharge outlet 48 for discharge of an insect-attracting gaseous product 50 to attract insects to the trap 34. the burner acts as an element in the housing for treating air to produce a gaseous mixture containing carbon dioxide (and probably some ozone since combustion is never complete). On pages 7-8 of the specification in paragraph [0011], applicant

states that the ozone generator is known and that the activated carbon filter is also known. Hence, in reference to claims 1, 2, 5, 6, 8, 9, it would have been obvious to provide Wigton with a known ozone generator and carbon filter to produce carbon dioxide as shown by the Admitted Prior Art since merely one source of carbon dioxide is being substituted for another and the function is the same. In reference to claims 3, 10, Applicant states on page 8 of the specification that corona discharge ozone producing units are old and well known. In reference to claim 4, Wigton discloses heat as a further insect attractant and element 34 for retaining and destroying insects attracted to the trap. In reference to claim 7, Admitted Prior Art on page 8 discloses that the corona discharge unit employs electrodes. In reference to claims 11-12, Wigton shows an inlet for entry of air into the unit and a discharge outlet for discharge of the insect attracting gaseous product from the unit as discussed in reference to claim 1, above. Wigton further shows a fan 38 for causing entry of air into the unit through the inlet and discharge of the insect attracting gaseous product through the discharge outlet as discussed above. In reference to claims 13-16, Wigton as modified the Admitted Prior Art, discloses a process of providing to an insect trap a gaseous product produced by the process of claim 1. In reference to claims 17-21, Wigton discloses the process of providing an insect trap in an area to be inhabited by insects and operating the device to produce the insect attracting gaseous product.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Bossler, Spiro, Durand, Winner, Askin, Lin, and Nolen show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321.

The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan
Primary Examiner
Art Unit 3643

KR